



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:00 a.m.
May 27, 2003

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Mike Connelly, Chair
Susan Brady, Vice Chair
Lois Clement, Secretary
Francis Martin, Member
Earl Tilly, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Asst. Attorney General
Linda Dalton, Sr. Asst. Attorney General
Ruthann Bryant, Secretary
Karen Copeland, Dir. Records & Admin.

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Mike Connelly at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

Commissioner Connelly noted that the enforcement hearing scheduled for 1:15 p.m. has been postponed and a pre-hearing conference will be held at that time. He also noted that an executive session will be held at approximately 11:30 a.m. to discuss Edelman v. PDC in which the Court of Appeals found that WAC 390-16-311 was inappropriate. A brief report regarding any possible action will be announced at approximately 11:45 a.m.

Commissioner Connelly congratulated staff for their efforts and hard work which has resulted in Washington being named as the number one state in the country for its regulation of lobbyist activities.

Citizen Comments/Concerns

Mr. Dave Wood, lobbyist, commented that he was scheduled to appear at the enforcement hearing and was shocked by the postponement.

Minutes

Motion 03-103

Moved by Commissioner Clement, seconded by Commissioner Tilly:

The Commission adopts the minutes of the regular meetings of March 25, 2003, and April 22, 2003, as written.

The motion passed unanimously.

Rule-Making

Public Hearing

WAC 390-16-245 Pledges

Mr. Ellis briefly discussed proposed language to WAC 390-16-245 that would allow pledges to be made and redeemed after the date of the primary election. The language would conform to the statutory changes in RCW 42.17.640(1) and treat the redemption of pledges in the same manner as standard monetary contributions received by a candidate or political committee.

WAC 390-18-010 Political advertising

--Identification of sponsor

Mr. Ellis also summarized language that would remove the requirement that broadcast political advertising conform to the requirements of the FCC and clarify the sponsor identification requirements for a political advertisement undertaken as an independent expenditure.

There were no public comments.

If approved, staff will file the CR 103 Rule-Making Order with the Code Reviser's Office and the rules would become effective 31 days after filing.

Motion 03-104

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission amends WAC 390-16-245, Pledges, and WAC 390-18-010, Political Advertising – Identification of Sponsor, as presented.

The motion passed unanimously.

Discussion of potential rule making

Mr. Ellis also noted that staff will conduct stakeholder meetings over the next three months to seek public comment to amend Chapter 390-19 WAC, Electronic Filing, to clarify that electronic filing is an annual mandate. Two possible new rules will also be discussed on Disclosure of Small Contributors and on Caucus Political Committee Reporting Requirements.

Chapter 390-37 WAC –
PDC Enforcement Hearing Rules

Assistant Attorney General Nancy Krier summarized proposed updates to PDC Enforcement Hearing (Adjudicative Proceeding) Rules.

Proposed new rule – WAC 390-37-XXX

Explaining the PDC's jurisdiction, and that it does not hear public records disputes over which the superior courts have exclusive jurisdiction.

WAC 390-37-010

Proposed amendment to encourage participants to consider alternative resolution or partial resolution procedures.

WAC 390-37-030

Proposed amendment to reflect case law developments on citizen action complaints.

Proposed new rule – WAC 390-37-041

Explaining the tolling provisions set out in case law for citizen action complaints, and to explain the Commission's options.

<i>WAC 390-37-090</i>	Proposed amendment explaining stipulations and settlements, encouraging resolution of cases without further litigation where appropriate, and stating what the presumption will be if the Commission directs a sanction or other step as the result of a stipulated agreement and no objection is lodged.
<i>WAC 390-37-100</i>	Proposed amendment explaining more details of hearing procedures.
<i>Proposed new rule – WAC 390-37-103</i>	Explaining current practices and statutes upon Commission receipt of alleged violations.
<i>WAC 390-37-105</i>	Proposed amendment explaining prehearing conference procedures.
<i>WAC 390-37-140</i>	Proposed amendment providing reference to penalty schedules for brief adjudicative proceedings.
<i>WAC 390-37-144</i>	Proposed amendment explaining how the Commission will hear reviews from brief adjudicative proceedings when the statutory time periods have expired, but when a reconsideration option is still available.
<i>WAC 390-37-150</i>	Proposed amendment explaining the criteria for reconsideration. The Commission authorized staff to move forward with the rule-making process. Commissioner Connelly also directed staff to review the effect of a dismissal letter with respect to appeals.
<u>Advisory Matter</u>	Phil Stutzman briefly reported on an amendment to PDC Interpretation 02-06, Requests for Modification of the Personal Financial Affairs Reporting Requirements for an Applicant Whose Spouse Creates a Reporting Obligation, for those applicants required to report for entities because their spouses hold a position or ownership interest in an entity.

Motion 03-105

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission amends Interpretation 02-06, Requests for Modification of the Personal Financial Affairs Reporting Requirements for an Applicant Whose Spouse Creates a Reporting Obligation for the Applicant, as presented.

The motion passed unanimously.

Audit Results Summary

Susan Harris summarized results of limited scope audits of the campaign records of 11 legislative candidates in last fall's election. She noted that the audits revealed that overall compliance with the campaign disclosure law was extremely high. There were some deficiencies in obtaining and keeping invoices related to work done by consultants and failure to itemize expenditures made by consultants both when the orders were placed and when the expenditures were paid. In addition, failure to report last minute contributions was common.

Ms. Harris reported that staff will remind filers through training and publications of the need to fully disclose consultant expenditures and file last minute contribution reports. In addition, future races will be monitored to promote better compliance in these areas.

Personal Financial Affairs Reporting

New Modification Request

*Bruce Allen, School Director,
Highland School District 203*

Mr. Stutzman reported that Bruce Allen requests an exemption from reporting business and governmental customers of Tree Top, Inc., a cooperative of which he is a director. Staff recommended approval of the modification for business customers.

Motion 03-106

Moved by Commissioner Tilly, seconded by
Commissioner Clement:

**The Commission grants the reporting
modification to Bruce Allen for
business customers only.**

**The Commission finds that literal
application would cause a manifestly
unreasonable hardship on the applicant
and that a limited modification would not
frustrate the purposes of the act.**

The motion passed unanimously.

*Craig Cole, Regent, University of
Washington*

Mr. Stutzman reported that Craig Cole requests an exemption from reporting business and governmental customers of Associated Grocers, Inc., of which he is a director. Staff recommended approval of the request for business customers.

Motion 03-107

Moved by Commissioner Clement, seconded by
Commissioner Tilly:

**The Commission grants the reporting
modification to Craig Cole for
business customers only.**

**The Commission finds that literal
application would cause a manifestly
unreasonable hardship on the applicant
and that a limited modification would not
frustrate the purposes of the act.**

The motion passed unanimously.

*Bruce Dammeier, School Director,
Puyallup School District 3*

Mr. Stutzman reported that Bruce Dammeier requests an exemption from reporting business customers of Valley Press/Print NW, of which he is a minority owner.

Motion 03-108

Moved by Commissioner Martin, seconded by
Commissioner Clement:

The Commission grants the reporting modification to Bruce Dammeier as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*William Linton, candidate for
Freeholder, City of Bellevue*

Mr. Stutzman reported that William Linton requests an exemption from reporting business and governmental customers of the law firm of Linville, Clausen, Linton & Holley, PLLC, of which he is part owner.

Motion 03-109

Moved by Commissioner Tilly, seconded by Commissioner Clement:

The Commission grants the reporting modification to William Linton in accordance with PDC Interpretation 02-03.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Connie M. Niva, Commissioner, WA
State Transportation Commission*

Mr. Stutzman reported that Connie Niva requests and exemption from reporting business and governmental customers of LMN Architects, of which her spouse is a partner.

Motion 03-110

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission grants the reporting modification to Connie M. Niva in accordance with Interpretation 02-06.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Tonja-Jolene Harmon, Commissioner
N Whidbey Parks & Rec District*

Mr. Stutzman reported that Tonja-Jolene Harmon requests an exemption from reporting the financial affairs of her husband.

Ms. Harmon was present via telephone and realized during the course of the discussion that she will be able to comply without a modification and she withdrew her request.

Michael L. Kelley, Mayor, City of Fife

Mr. Stutzman reported that Michael L. Kelley requests an exemption from reporting business customers of Fife Sand & Gravel LLC, of which he is owner. He noted that Mr. Kelley made a similar request in 1999 and that this modification would cover the F1s due in 2000 through 2003.

Mr. Kelley was present via telephone and stated that disclosing the names of his contaminated soil customers would put him at a competitive disadvantage.

Motion 03-111

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission grants to Michael Kelley a partial reporting modification relating to the private-sector, contaminated soil business customers of Fife Sand and Gravel.

The Commission finds that literal application would cause a manifestly

**unreasonable hardship on the applicant
and that a limited modification would not
frustrate the purposes of the act.**

Voting For: Commissioners Brady, Clement,
Martin and Connolly.

Voting Against: Commissioner Tilly.

The motion passed.

Renewals (with changes)
*Kenneth Alhadeff, Regent, WA State
University*

Mr. Stutzman reported that Kenneth Alhadeff requests a renewal of previously granted modification and an exemption from reporting business and governmental customers of Temple De Hirsch Sinai, of which he is a board member, and the Fountain for Early Learning, of which his spouse is a board member.

Motion 03-112

Moved by Commissioner Martin, seconded by
Commissioner Tilly:

**The Commission grants the reporting
modification to Kenneth Alhadeff as
requested, except that Mr. Ahladeff is
required to report all payments made
by Mothers Against Violence in
America to Washington State
University, and report all business
and governmental customers of
Mothers Against Violence in America
of which he is aware.**

**The Commission finds that literal
application would cause a manifestly
unreasonable hardship on the applicant
and that a limited modification would not
frustrate the purposes of the act.**

The motion passed unanimously.

*Monte Dalhstrom, Commissioner,
Grays Harbor Water District #2*

Mr. Stutzman reported that Monte Dalhstrom requests a renewal of previously granted modification and an exemption from reporting the business and governmental customers of Little River, Inc., of which he is a part owner.

Motion 03-113

Moved by Commissioner Tilly, seconded by Commissioner Clement:

The Commission renews the previously granted reporting modification to Monte Dahlstrom. In addition the Commission grants a reporting modification to Monte Dahlstrom to not identify the business customers of Little River, Inc.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Steven Hill, Regent, WA State
University*

Mr. Stutzman reported that Steven Hill requests a renewal of previously granted modification and an exemption from reporting business and governmental customers of Willamette Industries, of which he is a director.

Motion 03-114

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission renews the previously granted reporting modification to Steven Hill. In addition, the Commission grants a reporting modification to Steven Hill to not identify the business customers of Willamette Industries.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*William Ruckelshaus, Chairman,
Salmon Recovery Funding Board*

Mr. Stutzman reported that William Ruckelshaus originally requested a renewal of previously granted modification and an exemption from reporting business and governmental customers of Shared Strategy for Puget Sound, of which he is an officer, however after talking to Shared Strategy for Puget Sound no modification was needed. Mr. Ruckelshaus' request is the same as the prior year.

Assistant Attorney General Nancy Krier noted that Mr. Ruckelshaus is one of her clients and if there were any legal questions she would have to recuse herself from answering.

Motion 03-115

Moved by Commissioner Clement, seconded by Commissioner Tilly:

The Commission grants the reporting modification with no change to William Ruckelshaus.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Betty Woods, Trustee, Western
WA University*

Mr. Stutzman reported that Betty Woods requested renewal of a previously granted modification and an exemption from reporting the business and governmental customers of Pacific NW Bank, of which she is a board member. Staff

does not recommend granting the request for an exemption from reporting the business and governmental customers of Pacific NW Bank but does support renewal of last year's modification.

Motion 03-116

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission grants the reporting modification with no change to Betty Woods.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewals (no change)

Mr. Stutzman noted that LeeAnn Powers, Richard Roozen and Jeanne Stewart are requesting renewals with no change for both 2002 and 2003 filings. He also added that Interpretations will apply to requests where applicable.

The "renewals with no changes" reporting modification requests were considered en masse.

Motion 03-117

Moved by Commissioner Clement, seconded by Commissioner Tilly:

The Commission grants the reporting modifications requested by William W. Baker, Richard Baldwin, Jeffrey Brotman, Elizabeth Cowles, Robert Craves, Aubrey Davis, Marcus Gaspard, Gerald Grinstein, Stephen L. Johnson, Leslie Jones, David Lamb, Isabelle Lamb, Arch Miller, Linda Owings-Rosenburgh, LeeAnn Powers, Frank Radford, Jay Reich, Richard Roozen, Jeanne Stewart, Cynthia Sullivan, Mark Thompson, Melinda Travis, Elizabeth Verhey and Washington State School Directors' Association.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Enforcement Matters
Requests for Review
So Tired of Paying Taxes, Case
#03-061

Mr. Stutzman reported that a brief enforcement hearing was held on March 17, 2003, in which So Tired of Paying Taxes was found in violation of RCW 42.17.080 and .090 and assessed a penalty of \$400.

John Beal, former chair, was present via telephone and stated that the treasurer at the time felt overwhelmed and poor communication resulted in the incomplete filing. He requested reconsideration of the penalty.

There was no motion to review this matter.

Jerald Klein, Case #03-169

Mr. Stutzman reported that a brief enforcement hearing was held on April 22, 2003, in which Mr. Klein was found in violation of RCW 42.17.170 and assessed a penalty of \$200. Mr. Stutzman noted that WAC 390-20-014 clarifies RCW 42.17.170 and has been in place since 1987.

Mr. Klein was present via telephone and stated that he did not feel that the reporting requirement was applicable since there was no activity during the reporting period. He also stated that \$100 per missing report was an excessive penalty.

Commissioner Connelly noted that the amount of the penalty was based on a brief enforcement hearing penalty schedule adopted by the Commission.

AAG Nancy Krier briefly summarized RCW 42.17.170, Reporting by lobbyists, and WAC 390-20-014, Registration during last calendar quarter of the biennial registration period.

There was no motion to review this matter.

Executive Session

The Commission went into executive session at 11:50 a.m.

Public Session

The Commission returned to public session at 12:30 p.m.

Motion 03-118

Moved by Commissioner Martin, seconded by Commissioner Brady:

The Commission recommends that the Office of the Attorney General appeal the decision of the Court of Appeals in the matter of Edelman v Public Disclosure Commission to the Washington State Supreme Court.

Voting For: Commissioners Martin, Brady, Clement and Connelly.

Abstaining: Commissioner Tilly.

The motion passed.

Executive Session

The Commission returned to executive session at approximately 12:34 p.m. to discuss pending litigation with legal counsel.

Public Session

The Commission returned to public session at 1:15 p.m. and held a prehearing conference. Commissioner Connelly resumed the meeting at 1:45 p.m.

Staff Reports

Executive Director

Vicki Rippie briefly updated the Commission on the budget status and noted that at the June meeting she will propose that funds remaining at the close of the biennium be placed in an account

for pending litigation. She also commented that Commissioner Brady and some staff attended the May 71 signing of HB 1294, the bill changing the filing requirements for out-of-state and federal committees.

Assistant Director

Susan Harris distributed a preview version of the 2002 Fact Book and briefly summarized some of the information found in the book. She also reported that staff has completed the annual mailing to all counties which is comprised of more than 4,000 declaration packets for potential candidates.

Chief Technology Officer

Michael Smith updated the Commission on the status of the ORCA project and reported that internal testing is scheduled to begin in mid-July.

Assistant Attorney General

Nancy Krier briefly summarized current litigation, noting that a federal court case, California Pro-Life Council v Getman et al., has been decided and will be removed from the current case list.

Sr. Assistant Attorney General

Linda Dalton noted that approximately 14 cases sent to her office for collection of outstanding penalties have had judgments filed against them and 8 more are scheduled before the end of June.

Adjournment

Commissioner Connelly adjourned the meeting at 2:05 p.m. The next meeting is scheduled for Tuesday, July 29, 2003.

Approved by the Commission 7/29/03